

JAN 28 2008

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

CONSECO HEALTH INSURANCE
COMPANY,

RESPONDENT.

CONSENT ORDER

CAUSE NO. C-1650

Feb 13, 2008 ACCT# 8521 \$2,000.00
NO-INVOICE 12050 TRANS 1848569
CONSECO HEALTH INSURANCE COMPANY
CHECK# 2727710

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its representative, Martin W. Swanson and Consec Health Insurance Company, ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01, §44-303 and §44-4047, et seq.
2. Respondent is licensed as a health insurer under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Consec Health Insurance Company, Cause Number C-1650 on July 6, 2007. A copy of the petition was served upon the Respondent, at the Respondent's address registered with the Department by certified mail, return receipt requested.
2. The petition alleges that Respondent violated Neb. Rev. Stat. §§ 44-1539, 44-1540(1), 44-1540(3), 44-1540(4), as a result of the following conduct:

- a. On April 29, 2007, the Nebraska Department of Insurance (DOI) received a complaint indicating that Respondent failed to pay on a cancer policy.
- b. Scott Zager, an Insurance Investigator with the DOI initiated an investigation into the matter by sending a letter to Respondent on May 1, 2007. Respondent timely responded on May 18, 2007 and denoted that it did not pay on the policy because the diagnosis code submitted was not for a cancer related illness and the policy provision read "This policy does not provide benefits for any other disease or condition even if the disease or condition was complicated or aggravated by, but not caused by, cancer or cancer treatment."
- c. Insurance Investigator Zager took the information provided by Respondent and noted that the primary diagnosis code, while denoted dehydration, was actually due, per the doctors notes, to the cancer as reflected by the cancer diagnosis codes and the history of chemotherapy. Zager also noted that the policy language indicated that benefits were payable for other diseases and conditions caused by cancer but not for unrelated diseases or conditions merely complicated or aggravated by cancer.
- d. On June 18, 2007, DOI received a letter from Respondent. In the letter, Respondent admitted that "After further review of the complaint received, we determined that the benefits for [Complainant]'s January 27, 2007 through February 26, 2007 confinement were previously denied in error. This resulted from an adjuster's misinterpretation of the policy provisions. This issue has been identified and the adjuster now knows to look for the "caused by" language when processing claims."

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. In order to settle this matter, Petitioner agrees to dismiss the alleged violations of Neb. Rev. Stat. §§44-1539 and 44-1540(1). Respondent admits that it violated Neb. Rev. Stat. §§ 44-1540(3), 44-1540(4).

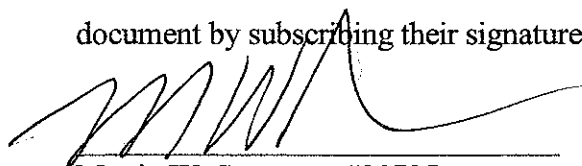
CONCLUSIONS OF LAW

The conduct of Respondent, as alleged above, constitutes violations of Neb. Rev. Stat. §§ 44-1540(3) and 44-1540(4).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of two thousand dollars (\$2,000). The Respondent has thirty days from the date of approval of this consent order by the Nebraska Director of Insurance to pay the two thousand dollar fine. Respondent also agrees to address its claims review process in order to rectify the issues that arose from the substance of the petition filed in this matter. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing their signatures below.



Martin W. Swanson, #20795
Department of Insurance
941 "O" Street, Suite 400
Lincoln, Nebraska 68508
(402) 471-2201



Conseco Health Insurance Company

Date Jan. 18, 2008

Date January 18, 2008

RENEE WAKE
Notary Public, State of Indiana
County of Marion
My Commission Expires Sep. 02, 2008

State of Indiana)
County of Marion) ss.

On this 18th day of January, 2008, Conseco Health Insurance Company personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

Renee Wake
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Consec Health Insurance Company, Cause No. C-1650.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Ann M. Frohman
~~L. TIM WAGNER~~ Ann M. Frohman
Director of Insurance

1-28-08
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at 11815 N Pennsylvania Street, P.O. Box 1911, Carmel, IN 46032, by certified mail, return receipt requested on this 28th day of January, 2007⁸.

Nancy A. Gubler